

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT TRUMP’S MOTION
TO DISMISS COUNTS 1–32 BASED ON UNCONSTITUTIONAL VAGUENESS**

THIS CAUSE comes before the Court upon Defendant Trump’s Motion to Dismiss Counts 1 through 32 Based on Unconstitutional Vagueness (the “Motion”), filed on February 22, 2024 [ECF No. 325]. The Special Counsel filed a Response in Opposition [ECF No. 377], to which Defendant Trump filed a Reply [ECF No. 398]. The Court heard argument on the Motion on March 14, 2024 [ECF No. 401]. Upon careful review of the Motion, related filings, and the arguments raised during the hearing, Defendant’s Motion is **DENIED WITHOUT PREJUDICE**.

Defendant Trump seeks dismissal of Counts 1 through 32 of the Superseding Indictment on the ground that the statutory phrases “unauthorized possession,” “relating to the national defense,” and “entitled to receive” appearing in 18 U.S.C. § 793(e) are unconstitutionally vague as applied under the facts presented, in violation of due process and the rule of lenity. Although the Motion raises various arguments warranting serious consideration, the Court ultimately determines, following lengthy oral argument, that resolution of the overall question presented depends too greatly on contested instructional questions about still-fluctuating definitions of

CASE NO. 23-80101-CR-CANNON

statutory terms/phrases as charged, along with at least some disputed factual issues as raised in the Motion. For that reason, rather than prematurely decide now whether application of 18 U.S.C. § 793(e) in these circumstances yields unsalvageable vagueness despite the asserted judicial glosses, the Court elects to deny the Motion without prejudice, to be raised as appropriate in connection with jury-instruction briefing and/or other appropriate motions.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Defendant Trump's Motion to Dismiss Counts 1 through 32 Based on Unconstitutional Vagueness [ECF No. 325] is **DENIED WITHOUT PREJUDICE**.

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this 14th day of March 2024.

A handwritten signature in black ink, appearing to read 'Aileen M. Cannon', written over a horizontal line.

AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: counsel of record